

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES WHITTENBERG,

Plaintiff,

No. CIV S-04-2313 FCD JFM P

vs.

LT. L. ROLL,

Defendant.

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On July 5, 2007, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. On August 15, 2007, plaintiff was granted a thirty-day extension of time to file objections. Neither party has filed objections to the findings and recommendations.

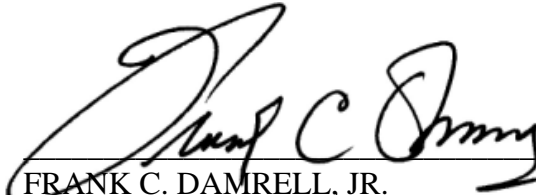
However, on September 12, 2007, plaintiff filed a second request for extension of time. Plaintiff contends he has had difficulty getting the right legal papers to file with the court and needs additional time to obtain a “possible sworn affidavit from [a] prospective witness.”

1 (September 12, 2007 Request at 2.) However, plaintiff does not identify the witness nor explain  
2 what this prospective witness would say or how the proposed testimony would demonstrate  
3 defendant Roll's culpability herein. (See July 5, 2007 Findings and Recommendations at 8.)  
4 Thus, plaintiff's request for extension of time will be denied.

5 The court has reviewed the file and finds the findings and recommendations to be  
6 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY  
7 ORDERED that:

- 8 1. Plaintiff's September 12, 2007 request for extension of time is denied;
- 9 2. The findings and recommendations filed July 5, 2007 are adopted in full; and
- 10 3. Defendant's June 26, 2006 motion for summary judgment is granted.

11 DATED: September 17, 2007.

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14 FRANK C. DAMRELL, JR.  
15 UNITED STATES DISTRICT JUDGE  
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